

Office of the Secretary, HUD

§ 55.12

§ 55.11 Applicability of subpart C decision making process.

(a) Before reaching the decision points described in § 55.10(a), HUD (for Department-administered programs) or the grant recipient (for HUD financial assistance subject to 24 CFR part 58) shall determine whether Executive Order 11988 and this part apply to the proposed action.

(b) If Executive Order 11988 applies, the approval of a proposed action or initial commitment shall be made in accordance with this part. The primary purpose of Executive Order 11988 is to “avoid direct or indirect support of floodplain development.”

(c) The following table indicates the applicability, by location and type of action, of the decision making process for implementing Executive Order 11988 under subpart C of this part.

TABLE 1

| Type of proposed action (new reviewable action or an amendment) | Type of proposed location | | | |
|---|--|---|---|---|
| | Floodways | Coastal high hazard areas | 100-year floodplain outside high hazard area | Area between 100- and 500-year floodplain |
| Critical actions as defined in § 55.2(b)(2). | Critical actions not allowed. | Critical actions not allowed. | Allowed if the proposed critical action is processed under § 55.20 ¹ . | Allowed if the proposed critical action is processed under § 55.20 ¹ . |
| Non-critical actions not excluded under § 55.12 (b) or (c). | Allowed only if the proposed action is a functionally dependent use and processed under § 55.20 ¹ . | Allowed only if the proposed action: (1) Is either (a) designed for location in a coastal high hazard area or (b) a functionally dependent use; and (2) is processed under § 55.20 ¹ . | Allowed if the proposed action is processed under § 55.20 ¹ . | Any non-critical action is allowed without processing under this part. |

¹ Or those paragraphs of § 55.20 that are applicable to an action listed in § 55.12(a).

§ 55.12 Inapplicability of 24 CFR part 55 to certain categories of proposed actions.

(a) The decision making steps in § 55.20 (b), (c) and (g) (steps 2, 3 and 7) shall not apply to the following categories of proposed actions: (1) HUD actions involving the disposition of HUD-acquired multifamily housing projects or “bulk sales” of HUD-acquired one- to four-family properties in communities that are in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (*i.e.*, not suspended from program eligibility or placed on probation under 44 CFR 59.24).

(2) HUD’s actions under section 223(f) of the National Housing Act (12 U.S.C. 1715n(f)) for the purchase or refinancing of existing multifamily housing projects (including hospitals, nursing homes, board and care facilities, and intermediate care facilities) in communities that are in good standing under the NFIP.

(3) HUD mortgage insurance actions for the repair, rehabilitation, mod-

ernization or improvement of existing multifamily housing projects (including nursing homes, board and care facilities and intermediate care facilities) and existing one- to four-family properties, in communities that are in the Regular Program of the NFIP and are in good standing, provided that the number of units is not increased more than 20 percent, the action does not involve a conversion from nonresidential to residential land use, and the footprint of the structure and paved areas is not significantly increased.

(b) The decision making process in § 55.20 shall not apply to the following categories of proposed actions: (1) HUD’s mortgage insurance actions and other financial assistance for the purchasing, mortgaging or refinancing of existing one- to four-family properties in communities that are in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (*i.e.*, not suspended from program eligibility or placed on probation under 44 CFR 59.24), where the action is not a critical action and the property